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and

MELLINGER, SANDERS & KARTZMAN, LLC
101 Gibraltar Drive, Suite 2F
Morris Plains, New Jersey 07950
Tel. (973) 267-0220
By: Adam G. Brief, Esq.
Attorneys for Trustee, Steven P. Kartzman

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In Re: : UNITED STATES DISTRICT COURT
: SOUTHERN DISTRICT OF NEW YORK
MAC TRUONG, :
: Case No. 07-cv-8267 (VM)
Debtor. :
-----x
MAC TRUONG, : CERTIFICATION OF STEVEN P.
: KARTZMAN IN OPPOSITION TO MOTION
Appellant, : TO VACATE ORDER CLOSING CASE
v. :
STEVEN P. KARTZMAN, :
Appellee, :
-----x

STEVEN P. KARTZMAN, of full age, certifies as follows:

1. I am an attorney at law of the State of New Jersey
and am a member of the firm of Mellinger, Sanders & Kartzman,

LLC, attorneys for the Chapter 7 Trustee. I am the Chapter 7 Trustee (the "Trustee") in the bankruptcy case of Mac Truong and Maryse Mac Truong bearing case number 03-40283 NLW, and the Plaintiff in an adversary proceeding styled *Kartzman, Trustee v. Mac Truong et als.*, bearing adversary proceeding number 03-2681 NLW (the "Adversary Proceeding"). As such, I have full knowledge of the facts and circumstances hereof. I make this Certification in Opposition to Mac Truong's Motion to Vacate Order Closing Case.

2. On February 14, 2008, the Bankruptcy Court for the District of New Jersey entered an Order Imposing Filing Injunction Against Mac Truong, Maryse Mac Truong and any Entity Acting on Their Behalf. A true and correct copy of the Injunction Order is annexed hereto as Exhibit A.

3. Mac Truong is a former attorney of the State of New York, and was disbarred in 2005. In connection with Mac Truong's bankruptcy case in New Jersey, Truong has appealed no less than 12 orders to the District Court. A true and correct copy of the results from an ECF query in the District Court of New Jersey is annexed hereto as Exhibit B. Truong has additionally appealed other Orders in cases in which the Trustee was not involved.

4. This is not the first time that one of Truong's appeals has been dismissed for failure to follow the Bankruptcy Rules. A true and correct copy of an Order of Dismissal entered

July 26, 2006 in the District of New Jersey is annexed hereto as Exhibit C.

5. Attached as Exhibit D is a true and correct copy of the cover and pages 29 through 47 of the transcript of the proceedings before Hon. James M. Peck on July 24, 2007, wherein Judge Peck issued his Decision that is the basis for the Order being appealed.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Stephen P. Kartzman
STEVEN P. KARTZMAN, ESQ.

Dated: February 28, 2008

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)



In Re:

Mac Truong and Maryse Mac-Truong,

Case No.: 03-40283


Hearing Date:

Judge: Novalyn L. Winfield

**ORDER IMPOSING FILING INJUNCTION AGAINST MAC TRUONG, MARYSE MAC TRUONG
AND ANY ENTITY ACTING ON THEIR BEHALF**

The relief set forth on the following pages, numbered two (2) through 2 is hereby **ORDERED**.

DATED: 2/14/2008


Honorable Novalyn L. Winfield
United States Bankruptcy Judge

Page 2

Debtor: Mac Truong and Maryse Mac-Truong

Case No.: 03-40283

Adv. No.: 03-2681

Caption or Order: Order Imposing Filing Injunction Against Mac Truong, Maryse Mac Truong and Any Entity Acting on Their Behalf

This matter having been brought before the Court on the motion of Trustee/Plaintiff Steven P. Kartzman, for an order imposing a filing injunction against Mac Truong and Maryse Mac Truong, and any entity acting on their behalf, and this Court having considered the opposition to the motion and the arguments of the Trustee and Mac Truong, and the court having issued its opinion on February 14, 2008; it is

ORDERED AS FOLLOWS:

1. Effective as of the date of the entry of this order on the docket, Mac Truong, Maryse MacTruong, and any entity or individual acting on their behalf are enjoined from filing any new action seeking relief against (i) the Trustee, (ii) the law firms and individual attorneys who have represented him in this bankruptcy case, (iii) the realtor and any individual agent or broker who represented the Trustee in this bankruptcy case, and (iv) any other professional who has assisted the Trustee in the administration of this bankruptcy case, in any tribunal in the United States (including any state court, federal court, or state or federal administrative agency) unless leave is granted by the bankruptcy court to file such an action.
2. To obtain leave of the bankruptcy court to file a new action against the Trustee and/or his professionals, Mac Truong, Maryse Mac Truong and any entity or individual acting on their behalf must file a motion captioned "Motion Pursuant to Court Order Seeking Leave to File." That motion must be supported by a sworn affidavit stating that (i) the new action is based on new claims, issues or facts that have not been previously raised in any court and are not barred by the doctrines of issue preclusion or claim preclusion, (ii) that the affiant believes the facts on which the new action is based are true, (iii) that the affiant has no reason to believe the new claims are foreclosed by applicable law, and (iv) that the affiant acknowledges that the affiant may be found in contempt of court and punished accordingly if anything contained in the affidavit is determined to be willfully false. The affiant shall annex the following exhibits to the affidavit: a copy of this order, the document that is proposed to be filed, and a certification of service showing service of the motion on each party against whom relief is sought.
3. Effective as of the date of the entry of this order on the docket, in any matter in a non-bankruptcy forum other than an appeal to the United States District Court for the District of New Jersey, that was pending on the date that the

Trustee filed his motion to obtain this expanded injunction, Mac Truong, Maryse Mac Truong and any entity or individual acting on their behalf shall file this order, together with the court's February 14, 2008 opinion and its exhibits as a supplement to any complaint or motion in which they seek relief based on matters arising in or related to this bankruptcy case.

4. Effective as of the date of the entry of this order on the docket, in any new or pending appeal, to the United States District Court for the District of New Jersey from any order of the bankruptcy court issued in either bankruptcy case 03-40283 or adversary proceeding 03-2681, Mac Truong, Maryse Mac Truong and any entity or individual acting on their behalf, shall file this order, together with the court's February 14, 2008 opinion and its exhibits as part of the designation of the record on appeal.
5. Failure to comply with the terms of this order may constitute sufficient grounds for denial of the relief sought by Mac Truong, Maryse Mac Truong or any entity or individual acting on their behalf.
6. The terms of the March 20, 2006 order of this court remain in full force and effect with regard to any pleadings, motions or cross-motions that Mac Truong or Maryse Mac Truong wish to file in Case No. 03-40283 or Adversary Proceeding 03-2681.
7. A copy of this Order shall be served on all parties to the Trustee's motion within seven (7) days of the entry of this order on the docket.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on February 14, 2008, I mailed a copy of the foregoing order to each of the following:

Steven P. Kartzman, Esq.
Mellinger, Sanders & Kartzman, LLC
101 Gibraltar Drive, Suite 2F
Morris Plains, NJ 07950

James J. Waldron, Clerk

EXHIBIT B

Select A Case

This person is a party in 28 cases.

<u>2:02-cv-05178-FSH</u>	TRUONG, et al v. LEVY, et al	filed 10/29/02 closed 04/02/03
<u>2:02-cv-05179-FSH</u>	TRUONG, et al v. CHARLES SCHWAB & CO., et al	filed 10/29/02 closed 04/04/03
<u>2:02-cv-05180-FSH</u>	TRUONG, et al v. TRAN	filed 10/29/02 closed 04/03/03
<u>2:02-cv-05181-DMC</u>	TRUONG, et al v. BAKER, et al	filed 10/29/02 closed 02/07/03
<u>2:03-cv-04618-WGB</u>	BROADWHITE ASSOCIATE v. TRUONG, et al	filed 09/29/03 closed 10/08/03
<u>2:03-cv-04866-WJM</u>	MAC-TRUONG, et al v. DDC FOR THE FIRST, et al	filed 10/03/03 closed 11/05/03
<u>2:04-cv-01976-JLL</u>	TRUONG v. BROADWHITE ASSOCIATES	filed 04/28/04 closed 07/12/04
<u>2:05-cv-02595-WGB</u>	MAC-TRUONG vs KARTZMAN, et al	filed 05/19/05 closed 06/24/05
<u>2:05-cv-02847-WGB</u>	TRUONG et al v. KARTZMAN et al	filed 06/03/05 closed 06/24/05
<u>2:05-mc-00389-DRD</u>	TRUONG v. KARTZMAN ET AL.	filed 11/23/05
<u>2:05-mc-00418-DRD</u>	MAC TRUONG v. STEPHEN P. MCGOLDRICK	filed 11/30/05
<u>2:06-cv-02113-JAP-MCA</u>	TRUONG v. WINFIELD et al	filed 05/08/06 closed 07/06/06
<u>2:06-cv-03178-FSH</u>	TRUONG v. TRAN	filed 07/13/06 closed 10/20/06
<u>2:06-cv-03179-SDW</u>	TRUONG et al v. KARTZMAN	filed 07/13/06 closed 07/28/06

<u>2:06-cv-03180-FSH</u>	TRUONG v. THI-NGUYEN	filed 07/13/06 closed 09/20/06
<u>2:06-cv-03181-FSH</u>	TRUONG et al v. NGUYEN	filed 07/13/06 closed 09/20/06
<u>2:06-cv-03182-FSH</u>	TRUONG et al v. NGUYEN	filed 07/13/06 closed 09/20/06
<u>2:06-cv-03183-FSH</u>	TRUONG et al v. NGUYEN	filed 07/13/06 closed 08/03/06
<u>2:06-cv-03286-GEB</u>	TRUONG et al v. MAC-TRUONG	filed 07/18/06 closed 06/22/07
<u>2:06-cv-03464-DRD</u>	TRUONG et al v. KARTZMAN	filed 07/28/06 closed 09/26/06
<u>2:06-cv-04978-SRC</u>	TRUONG et al v. KARTZMAN	filed 10/18/06 closed 01/18/07
<u>2:06-cv-05511-GEB</u>	TRUONG et al v. KARTZMAN	filed 11/16/06 closed 07/05/07
<u>2:07-cv-01203-SDW-MCA</u>	TRUONG et al v. KARTZMAN	filed 03/14/07 closed 04/17/07
<u>2:07-cv-03794-SDW</u>	TRUONG et al v. KARTZMAN	filed 08/06/07 closed 09/25/07
<u>3:00-cv-04819-MLC</u>	TRUONG v. VITRANSCHART, INC., et al	filed 09/19/00 closed 10/11/00
<u>3:00-cv-04820-MLC</u>	TRUONG v. BROADWHITE ASSOC.	filed 09/19/00 closed 10/11/00
<u>3:00-cv-04821-MLC</u>	TRUONG v. LINDENBERG, et al	filed 09/19/00 closed 10/11/00
<u>3:00-cv-04822-MLC</u>	TRUONG v. VITRANSCHART, INC., et al	filed 09/19/00 closed 10/11/00

PACER Service Center			
Transaction Receipt			
02/21/2008 15:36:30			
PACER Login:	sk0465	Client Code:	
Description:	Search	Search Criteria:	Last Name: Truong First Name: Mac

Billable Pages:	2	Cost:	0.16
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Select A Case

This person is a party in 3 cases.

2:07-cv-03794-SDW TRUONG et al v. KARTZMAN filed 08/06/07 closed 09/25/07

2:07-cv-05066-SDW TRUONG et al v. KARTZMAN filed 10/19/07

2:08-cv-00538-SDW TRUONG v. KARTZMAN filed 01/30/08

PACER Service Center			
Transaction Receipt			
02/21/2008 15:36:41			
PACER Login:	sk0465	Client Code:	
Description:	Search	Search Criteria:	Last Name: Truong First Name: Mac
Billable Pages:	1	Cost:	0.08

Select A Case

This person is a party in 3 cases.

2:07-cv-03794-SDW TRUONG et al v. KARTZMAN filed 08/06/07 closed 09/25/07

2:07-cv-05066-SDW TRUONG et al v. KARTZMAN filed 10/19/07

2:08-cv-00538-SDW TRUONG v. KARTZMAN filed 01/30/08

PACER Service Center			
Transaction Receipt			
02/21/2008 15:36:41			
PACER Login:	sk0465	Client Code:	
Description:	Search	Search Criteria:	Last Name: Truong First Name: Mac
Billable Pages:	1	Cost:	0.08

EXHIBIT "C"

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MAC TRUONG, et al.,

Plaintiff,

v.

STEPHEN KARTZMAN,

Defendant.

Civil Action No. 06-3179(SDW)

ORDER OF DISMISSAL

Wigenton, District Judge

Appellants Mac Truong and Marsey Mac Truong ("Appellants"), acting *pro se*, seek an appeal of an adverse judgment from Bankruptcy Court. Appellee Stephen Kartzman ("Appellee") objects to this appeal based on Appellants' violation of *Bankr.R.* 8006. Specifically, Appellants failed to file a "Designation of Items to be Included in the Record" and a "Statement of Issues to be Presented," which are prerequisite to a bankruptcy appeal pursuant to *Bankr.R.* 8006. The Court shall invoke *Bankr.R.* 8001(a) and dismiss Appellants' application for improper prosecution.

The Bankruptcy Rules provide that a party seeking to appeal from a judgment of a bankruptcy judge to a district court must file a notice of appeal with the clerk of the bankruptcy court within ten days of entry of the contested order. *Bankr.R.* 8001(a), 8002(a). In addition, within ten days after filing the notice of appeal, "the appellant shall file with the clerk of the bankruptcy court and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented." *Bankr.R.* 8006. The District Court shall have discretionary power to dismiss an appeal if the appellant fails to take any step required under the rules for proper prosecution of that appeal. *Bankr.R.* 8001(a). Further, *pro se* parties shall "follow the same rules of procedure that govern other litigants."

Green v. Dorrell, 969 F.2d 915, 917 (10th Cir. 1992).

The appellate courts have affirmed dismissals of bankruptcy appeals for failure to comply with the rules. See *International Brotherhood of Teamsters v. Braniff Airways, Inc.*, 774 F.2d 1303 (5th cir. 1985); *In Re Serra Builders, Inc.*, 970 F.2d 1309, 1311 (4th Cir. 1992)(affirming dismissal of bankruptcy appeal because the appellant filed its designation of the record on appeal fifteen days late and did not request an extension until after the deadline had passed; noting that the only explanation offered was that the appellant's attorney was out of the country); *Nielson v. Price*, 17 F.3d 1276, 1277 (10th Cir. 1994)(affirming dismissal of appeal from bankruptcy court judgment because, without explanation, the plaintiffs failed to designate the record on appeal, file a statement of the issues, or file an appellate brief).

In the present case, Appellants filed the notice of appeal of a bankruptcy judgment on May 22, 2006. However, Appellant failed to file, within ten days from the date of filing the notice of appeal, a "Designation of Items to be Included in the Record" and a "Statement of Issues to be Presented" in contravention of *Bankr.R.* 8006. The Court, after nearly two months and the Bankruptcy Court notifying the District Court of Appellants' deficiencies, received a letter from Appellants seeking for an extension until August 1, 2006 to file the necessary document to meet the rules. The only explanation offered for Appellants' lack of prosecution of the appeal was that Appellants had not been apprised by the Court of the status of their appeal after the notice of appeal was filed on May 22, 2006.

The Court rejects this excuse as Appellants should have filed the documents timely pursuant to *Bankr.R.* 8006 irrespective of the status of their appeal. Furthermore, it appears, from a review of the Court's docket, that Appellant Mr. Truong currently has multiple proceedings before several District Judges. Ostensibly, Mr. Truong is familiar with the rules. Therefore, it is disingenuous of Mr. Truong to justify his inexcusable neglect based on an explanation that bears no merit.

Thus, it is on this 26th day of July 2006,

Ordered that Appellants' appeal of a judgment from Bankruptcy Court is denied.

s/SUSAN D. WIGENTON
UNITED STATES DISTRICT JUDGE

Orig: Clerk
cc: Parties
File

EXHIBIT "D"

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: Case No. 07-12194 (JMP)
MAC TRUONG, Chapter 13
Debtor. Manhattan, New York
Tuesday, July 24, 2007
9:10 a.m.

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: Mac Truong, Pro Se
325 Broadway
New York, New York 10007
For the U.S. Trustee: Andrew D. Velez-Rivera, Esq.
Serene K. Nakano, Esq.
OFFICE OF THE U.S. TRUSTEE
33 Whitehall Street, 21st Floor
New York, New York 10004
For Chapter 13 Trustee, Jodi Kava, Esq.
Jeffrey L. Sapir: 399 Knollwood Road, Suite 102
(Via Telephone) White Plains, NY 10603
Chapter 7 Trustee: Steven P. Kartzman, Esq.
(Via Telephone) MELLINGER SANDERS & KARTZMAN, LLC
101 Gibraltar Drive, Suite 2F
Morris Plains, NJ 07950
Audio Operator: Electronically Recorded
by Karen Cappiello, ECRO
Transcription Company: Rand Transcript Service
80 Broad Street, Fifth Floor
New York, New York 10004
(212) 504-2919
www.randtranscript.com

Proceedings recorded by electronic sound recording, transcript
produced by transcription service.

1 counseling.

2 MR. VELEZ-RIVERA: We weren't aware of that, Your
3 Honor.

4 THE COURT: That motion, which is not presently before
5 me, which I saw was filed yesterday, argues that because of the
6 urgency associated with the foreclosure or eviction in New
7 Jersey of the 327 Demott Avenue premises that there was no time
8 to obtain credit counseling. It was filed as a motion that,
9 among other things, repeated many of the statements made in the
10 motion filed by this debtor relating to venue.

11 In the ordinary Chapter 13 case, there is a standard
12 form which is submitted to chambers seeking an extension of the
13 time for filing a credit counseling certificate. Those forms
14 ordinarily provide for the individual debtor who may be pro se
15 to set forth the reasons that support a finding of exigent
16 circumstances that would warrant a 30-day extension of the
17 requirement for filing that certificate.

18 These requests are routinely either granted or denied.
19 On occasion, these requests become the subject of a hearing on
20 my regular Chapter 13 day. And as Miss Kava knows, and she's
21 on the line listening to this hearing, as recently as last
22 Thursday, I granted a request for an extension of the time,
23 although it's an unusual circumstance for me to do that.

24 Based upon my review of the facts and circumstances of
25 this Chapter 13 case, particularly since the disputes with the

1 trustee that precipitated the filing have been ongoing for a
2 number of years and particularly because Mr. Truong, although
3 no longer permitted to practice law, was at one time a member
4 of the Bar of the State of New York and continues to be on the
5 rolls of admitted attorneys in the Second Circuit, a situation
6 which I would hope will be corrected soon and that you will be
7 stricken from the list of attorneys in the Second Circuit, Mr.
8 Truong. But nonetheless, you are educated as a lawyer and as a
9 result of your having filed numerous pleadings pro se in the
10 bankruptcy cases that have involved you and your wife in the
11 District of New Jersey, you are an unusually sophisticated pro
12 se litigant and pro se debtor.

13 As a result, I have to conclude that you have been
14 aware for some time of the requirement to obtain credit
15 counseling if you were ever going to commence a case to be
16 governed under the law that came into effect on October 17,
17 2005, and that the circumstances that you have set forth in
18 your application to be excused from the requirement of credit
19 counseling that applies to all debtors who seek relief under
20 Chapter 13 -- I find that your application for such relief is
21 lacking in the requisite allegations of exigent circumstances
22 to warrant being excused of the requirement for credit
23 counseling and I am denying your application today, even though
24 it is not before me today, so that you are aware that this is a
25 ministerial act that courts routinely will exercise without a

1 full hearing.

2 You, however, have had the extra added attraction of
3 having had a full opportunity to appear and be heard at a time
4 when you've also had an opportunity to hear from Mr. Kartzman
5 and from the U.S. Trustee's Office regarding the concerns that
6 they have as to this case, not only with respect to credit
7 counseling, but as to this case being a somewhat shocking and
8 extraordinary example of bankruptcy abuse.

9 The particular reason that I conclude that this is a
10 shocking and conspicuous example of bankruptcy abuse is that
11 you filed this case for the express purpose of blocking Mr.
12 Kartzman's efforts to evict you from your home in New Jersey.
13 You filed the case knowing full well that Judge Winfield in
14 March of this year had already concluded that you were not a
15 debtor of the sort entitled to Chapter 13 relief.

16 In fact, her opinion which denied you that relief
17 quotes from a Supreme Court of the United States case
18 indicating that you are an individual who is not a member of
19 the class of "honest but unfortunate debtors" that the
20 bankruptcy laws were enacted to protect. See Grogan v. Garner,
21 498 U.S. at 287.

22 This is a circumstance in which the Chapter 13 case
23 commenced on July 19 follows within hours the dismissal of the
24 Chapter 11 case of To-Viet-Dao which also included actions by
25 your counsel that were shocking in effect that there were

1 affirmatively misleading statements made to this Court to
2 schedule an emergency hearing for purposes of applying the
3 automatic stay to the actions Mr. Kartzman had undertaken
4 against you in New Jersey. That request for emergency relief
5 that I must believe you helped to engineer followed within
6 approximately one week Judge Brown's decision of July 5 which
7 affirmed Judge Winfield's various decisions that went against
8 you in the bankruptcy court.

9 My reasonable conclusion from what I have observed
10 both in the To-Viet-Dao hearing last week and today's status
11 conference, is that you are seeking to use this court as a
12 means to collaterally attack judgments that have been obtained
13 against you by Mr. Kartzman as Chapter 7 trustee in the cases
14 involving you and your wife in the District of New Jersey.

15 The United States bankruptcy system was not set up so
16 that an individual debtor could cross the Hudson River and
17 obtain relief in New York not obtainable in New Jersey.

18 It's apparent from my review of Judge Winfield's
19 decision of March 5, 2007 that she fully and fairly evaluated
20 your request to convert your Chapter 7 case to a case under
21 Chapter 13 and concluded for a variety of reasons that
22 conversion was not appropriate. She gave careful consideration
23 to the United States Supreme Court's recent decision In re
24 Maramma in which the United States Supreme Court indicated that
25 there was not an automatic right of conversion from Chapter 7

1 to Chapter 13 and that good faith was a matter of significance
2 for bankruptcy courts to consider in administration of cases
3 such as this.

4 As Judge Winfield observed at Page 8 of her decision:
5 "The facts in Maramma are not dissimilar to the facts
6 in the case at bar. Here, the Truongs transferred
7 their property to family members and corporate
8 entities to put it beyond the reach of the trustee and
9 their creditors. They have made inconsistent and
10 unconvincing explanations of their assets and
11 liabilities. Moreover, they filed this motion to
12 convert only after the Chapter 7 trustee moved to
13 remove them from their residence for failure to
14 cooperate with him. This type of bad faith conduct
15 makes the Truongs unworthy of and therefore ineligible
16 for the benefits of Chapter 13. A bankruptcy court
17 will not permit the abuse of the bankruptcy process."

18 I agree with Judge Winfield. A bankruptcy court
19 should not permit the abuse of the bankruptcy process and I see
20 abundant evidence that Mr. Truong is seeking to use this court
21 to achieve a goal not otherwise obtainable in New Jersey in a
22 case that has been pending since 2003. This is an abuse that I
23 will not tolerate.

24 My original inclination before today's status
25 conference was that one way to deal with this situation was to

1 simply transfer on my own motion this Chapter 13 case from the
2 Southern District of New York to the District of New Jersey
3 upon a finding that the District of New Jersey was the proper
4 venue for this bankruptcy case. The bankruptcy case was
5 commenced by Mr. Truong's own statement today for the express
6 purpose of protecting his possessory rights, if any, at 327
7 Demott Avenue, a property which is located in Teaneck, New
8 Jersey and which has been the subject of much litigation before
9 Judge Winfield and in the District Court of New Jersey.

10 However, based upon the statements made on the record,
11 the papers submitted by Mr. Kartzman, the position articulated
12 by the Office of the United States Trustee, and in particular
13 my observation of Mr. Truong, who during his own presentation
14 today has shown a complete lack of remorse in his dealing with
15 these issues, I believe that the only proper resolution of this
16 matter is to dismiss this bankruptcy case as an unabashedly bad
17 faith filing; one in which Mr. Truong, on the heels of
18 dismissal of the To-Viet-Dao Chapter 11 bankruptcy case, sought
19 once again to obtain the protections of the automatic stay and
20 knew full well at the time that he filed the Chapter 13 case
21 here that he was seeking a relief that had been denied him by
22 Judge Winfield following full argument and an adjudication that
23 was made in March of 2007.

24 Mr. Truong is not entitled to obtain here what he
25 could not obtain in his first bankruptcy case.

1 This is not a system that allows shopping from judge
2 to judge to finally find one who will find your way, Mr.
3 Truong. Judge Winfield's decision is entitled to full respect.
4 The only way that I can give it the respect that it deserves is
5 to dismiss your case today, and that's what I'm doing.

6 As far as the request for springing sanctions, I am
7 prepared to provide an injunction against filing --

8 MR. TRUONG: Your Honor, you said before that you
9 would let me talk before you make your conclusion of law. I
10 did not even -- I was not even granted to put it on the record
11 an opportunity to object to Mr. Kartzman practical motion to
12 dismiss my case why he has no standing because actually the
13 authority to move the court to dismiss my Chapter 13 case
14 belong to the -- my Chapter 13 -- Mr. Sapir, who is the trustee
15 of my case --

16 THE COURT: Well, before you --

17 MR. TRUONG: -- and not --

18 THE COURT: -- before --

19 MR. TRUONG: -- because of Mr. Kartzman --

20 THE COURT: Mr. --

21 MR. TRUONG: Please, Your Honor.

22 THE COURT: Mr. Truong, you're in my courtroom, so
23 you'll have a full opportunity to speak, but you also
24 interrupted me when I was speaking. And I'm speaking to you
25 from a position of not just authority, but of real concern for

1 what you have perpetrated on the federal and state judicial
2 system. I have reviewed in preparation for today's hearing
3 cases which include Judge Stein's decision from 2003, a
4 publicly available decision, in which it was apparent to him,
5 as it is apparent to me, that you have engaged in a pattern of
6 frivolous conduct that is sanctionable. So I will give you a
7 full opportunity to say whatever you wish to say, but you'll
8 have that opportunity after I finish saying what I have to say.

9 MR. TRUONG: Yes, Your Honor.

10 THE COURT: As to the issue of springing sanctions
11 raised by the U.S. Trustee's Office, including what amounts to
12 non-dischargeable monetary penalties associated with further
13 filings, I am not inclined to provide monetary penalties
14 associated with a bankruptcy filing. There is a constitutional
15 right to commence bankruptcy cases in appropriate
16 circumstances.

17 This case appears to me to be one in which the right
18 to file has been forfeited by the abuse of circumstances
19 surrounding the timing of the filing and the fact that Mr.
20 Truong with full knowledge knew that a Chapter 13 was not
21 available to him in his home court. I am concerned that the
22 dismissal of Mr. Truong's case will not be sufficient under
23 today's circumstances because his wife might just as easily
24 file for Chapter 13 relief tomorrow.

25 So what I am prepared to do in light of the obvious

1 linkage between Mr. Truong and his wife -- I will note, for
2 example, that in the original Chapter 13 case of To-Viet-Dao,
3 Mr. Truong appeared when the case was first called as a pro se
4 individual acting on behalf of a limited partnership. I told
5 him at that time that a limited partnership could not appear in
6 court as a pro se party and needed to be represented by
7 counsel. I also told him that Chapter 13 was a chapter of the
8 Bankruptcy Code that did not apply to limited partnerships, but
9 only to individuals.

10 He requested at that first hearing -- and this is only
11 the second time that I've had Mr. Truong in my court. He
12 requested at that first hearing the right to represent the
13 interest of the limited partnership, noting that he himself was
14 an attorney, although he said he had been suspended. I told
15 him that he would need to obtain an outside lawyer to represent
16 the enterprise.

17 He further argued with me at the time for the right to
18 convert the case to Chapter 11 rather than to dismiss the case
19 so as to minimize the filing fees associated with commencing a
20 new bankruptcy case. When I first met Mr. Truong, I had no
21 knowledge whatsoever of the rich litigation history that Mr.
22 Truong had in connection with 327 Demott Avenue, nor did I know
23 that To-Viet-Dao had filed for Chapter 13 originally and sought
24 a conversion to Chapter 11 for purposes of protecting that real
25 estate and for purposes of collaterally attacking judgments

1 that had been obtained in the District of New Jersey.

2 During subsequent hearings with respect to To-Viet-
3 Dao, Mr. Truong's wife appeared instead of Mr. Truong, and she
4 appeared in her capacity as a general partner of To-Viet-Dao.
5 I will note that at the hearing that took place in this court
6 last week on July 18th, Mr. Truong's wife again appeared,
7 although she was accompanied by counsel.

8 I conclude as a result of the appearances that have
9 taken place in the To-Viet-Dao bankruptcy case, which is
10 clearly related to this bankruptcy case in that both were filed
11 for purposes of protecting the real estate in New Jersey from
12 Mr. Kartzman's ongoing efforts to evict the occupants, that
13 Mrs. Truong and Mr. Truong are involved in a tag team effort to
14 frustrate Mr. Kartzman's eviction. For that reason, I am
15 prepared to include in the order dismissing this Chapter 13
16 case an injunction applicable both to Mr. Truong and to Maryse
17 Truong.

18 Mr. Truong, you wish to say something. This is your
19 opportunity.

20 MR. TRUONG: Yes, Your Honor. The bottom line of this
21 case and why I am so frustrated in this case is this, Your
22 Honor. My house was worth \$270,000 at the time when I transfer
23 it to my sister-in-law in 1999. Whatever it happens, now in
24 2003 --

25 THE COURT: May I stop you for one second? When you

1 transferred your house to your sister-in-law, your sister-in-
2 law was a resident of Paris, correct?

3 MR. TRUONG: Yes, Your Honor.

4 THE COURT: It has already been determined by Judge
5 Winfield in the Bankruptcy Court for the District of New Jersey
6 and by Judge Brown on appeal from her decisions in the
7 adversary proceeding brought against you by the trustee that
8 the transfer to your sister-in-law and the further transfers
9 that ultimately ended up in the property being titled to To-
10 Viet-Dao were fraudulent conveyances. And we're not just
11 talking about constructive fraudulent conveyances, we're
12 talking about active culpable fraud. We're talking about an
13 intention on your part found after full opportunity for you to
14 present your case that you were intentionally seeking to
15 protect that property from the hands of creditors, including
16 Broadwhite.

17 MR. TRUONG: That's not --

18 THE COURT: You don't need to re-litigate that here.
19 It is -- it's been --

20 MR. TRUONG: Your Honor, you --

21 THE COURT: -- done.

22 MR. TRUONG: -- say you give me a chance --

23 THE COURT: A court --

24 MR. TRUONG: -- to talk and right now --

25 THE COURT: You have a chance to talk --

1 MR. TRUONG: -- you interrupt me every second.

2 THE COURT: You have a chance to talk about the matter
3 that's before me.

4 MR. TRUONG: Yes, Your Honor.

5 THE COURT: You do not have an opportunity to re-
6 litigate any of the matters --

7 MR. TRUONG: No that, Your Honor.

8 THE COURT: -- that have been litigated in New Jersey.

9 MR. TRUONG: I do not, Your Honor. I just say the
10 value of the property's 270 at that time. So however it is,
11 now the house is worth 750,000. So whatever it is, the
12 fraudulent transfer, be it that way. Actually it's not, but
13 then we don't litigate that. But let it be. So it's still
14 only \$270,000 subject to fraudulent transfer and now the value
15 of the house is \$750,000. So be that the estate has only
16 \$270,000 in that property and the balance of \$480,000 still
17 belong to me outright if that's the case, Your Honor.

18 So that's the main point, and right now I owe
19 absolutely nothing to anybody, a Chapter 7 debtor or a Chapter
20 13 debtor. And right now all that I worry about is Mr.
21 Katzman's fee, Your Honor. He just make up the whole thing and
22 then now he claim first just only few minute ago that he has
23 \$200,000 in fees. That's what I worry about.

24 And now just last week he say I have \$300,000 in fee
25 against you. So right now the bottom line is very simple, Your

1 Honor. They want to sell my house to get \$750,000 for Mr.
2 Kartzman to get 300,000 fees and nobody else get anything,
3 except maybe the mortgagee get 14,000 like he said himself.
4 That's the bottom line, Your Honor.

5 THE COURT: Mr. Truong, the only court that should be
6 hearing this argument is Judge Winfield's court or to the
7 extent that the matter has been appealed to a higher court, the
8 Third Circuit. The Southern District of New York is a stranger
9 court to this dispute.

10 You may have an office on Broadway and you may have
11 written numerous pro se pleadings from that location which were
12 filed in the District of New Jersey, but you voluntarily
13 commenced, as I understand it, two separate bankruptcy cases in
14 the District of New Jersey, you've commenced voluntarily two
15 collateral bankruptcy cases in the Southern District of New
16 York, you've had a history of litigation in New York State
17 Supreme Court and in the District Court for the Southern
18 District of New York relating to a host of personal and
19 transactional issues, none of which are relevant to today's
20 status conference.

21 The only issue that is really relevant to today's
22 status conference is whether this bankruptcy case filed by you
23 on July 19 was filed abusively and whether or not it was filed
24 in the right district. I believe that it was filed abusively
25 given the circumstances and my direct personal knowledge of

1 what went on in the To-Viet-Dao bankruptcy case immediately
2 prior to your commencement of this case, and I believe that
3 even if it were not filed abusively that it is filed in the
4 wrong court.

5 Even if you could demonstrate that your office
6 location was a location where you generated regular income, a
7 matter which is suspect in light of the affirmations made in
8 connection with your New Jersey in forma pauperis application,
9 I would find that the only forum that is appropriate for
10 hearing the Chapter 13 case would be Judge Winfield's court
11 because that is the court that has the greatest familiarity
12 with the facts and circumstances of your longstanding dispute
13 with your creditors and with Mr. Kartzman as Chapter 7 trustee.

14 Furthermore, I would on my own motion if I weren't
15 dismissing the case for an abusive filing, transfer the case
16 for the convenience of the parties and in the interest of
17 justice to Judge Winfield. I have no doubt that once Judge
18 Winfield were to receive the case upon transfer, she would be
19 appalled to discover that you had sought to undermine her
20 authority and the finality of her decision in March of 2007
21 finding in clear and convincing language that you did not
22 qualify for Chapter 13 relief, that you had come here seeking
23 to obtain that relief from me. I am not going to enable you to
24 do that.

25 The only appropriate outcome is dismissal. Because

1 whether or not this were a bad faith filing, it would be
2 subject to dismissal upon the U.S. Trustee's motion because of
3 your failure to obtain credit counseling. I believe that the
4 U.S. Trustee would also seek to move to dismiss the case based
5 upon the abusive nature of the filing, particularly as it
6 related to the order crafted by that office on the 18th of July
7 seeking to bar To-Viet-Dao from further filings for one year.

8 MR. TRUONG: Can --

9 THE COURT: Your consistency is apparent. You will
10 stop at nothing to game the bankruptcy system. It's stopping
11 here and now. And if you continue, and you're welcome to say
12 whatever you like, you will simply further support Mr.
13 Kartzman's efforts, which I will give him to right to pursue,
14 to obtain sanctions against you under Section 1927. You are
15 digging a deeper and deeper hole for yourself and I believe
16 that you are in the predicament that you are in because you
17 have rather adroitly created it for yourself.

18 MR. TRUONG: Your Honor, the reason why I have an
19 emergency it's because first To-Viet-Dao was supposed to be
20 able to protect the property in New Jersey, but on the 18, Your
21 Honor say that the property was gone from To-Viet-Dao estates
22 therefore it cannot protect it anymore.

23 And where was it gone to? It's gone to me, Your
24 Honor. So therefore only after To-Viet-Dao case was dismiss
25 and I do not obtain anymore the stay on the house due to To-

1 Viet-Dao's filing for Chapter 11 that I have an emergency to
2 file by myself as you know. So that from that viewpoint
3 emergency is absolutely true. So it had to be done quickly
4 because you know they would evict me from my house today. So
5 that I have no choice even though I know that the credit
6 counseling is needed, I cannot know that I would have to file
7 for Chapter 13 right away after To-Viet-Dao case was dismiss,
8 Your Honor.

9 And now for my good faith belief in my right to have
10 the Chapter 13 is even though Judge Winfield did not allow me
11 to convert, it's because mainly first, Your Honor, it's because
12 she said that I had to refer to the amount of debts in my
13 original filing and now since it was amended to be less than
14 270,000, therefore that main thing -- that main hurdle is met
15 and therefore I qualify even to renew my Chapter 7 13 (sic)
16 before her. Then I can do that, except that I would like to do
17 it here thinking that I have the right to have my business in
18 this forum and therefore, as a person who move from New Jersey
19 to New York, I have the right also to choose my forum.

20 Of course if I would like to be able to have a court
21 who is impartial and with a trustee who is impartial, I may
22 have a better chance. If the Court blame that on me, that's
23 absolutely true, Your Honor. I do need a court that is
24 impartial and that give me a chance of talking my case. And my
25 case which is very simple. Whatever it is my house is worth

1 now \$750,000 and all what Mr. Kartzman could do if he say that
2 it doesn't belong to my Chapter 13 estate, he's completely
3 wrong, Your Honor.

4 THE COURT: Well, let me stop you because what you've
5 just said demonstrates why this case should be dismissed. You
6 have said in your own words that you believe this Chapter 13
7 case is about what happens to the equity value at 327 Demott
8 Avenue, Teaneck, New Jersey, a property that has been the
9 subject of much litigation already in the District of New
10 Jersey.

11 It's not going to be re-litigated here, and you're not
12 going to have the opportunity to choose your forum if it's not
13 a forum that you've chosen in good faith. And I believe based
14 upon everything that I have seen both in the To-Viet-Dao
15 bankruptcy and in this bankruptcy, and I have learned quite a
16 lot in the last week, that you are not the kind of debtor who
17 deserves the protection of Chapter 13 in this court and that
18 Judge Winfield was quite right when she referenced the Grogan
19 v. Garner case from the Supreme Court. You are not a member of
20 the class of honest but unfortunate debtors that bankruptcy
21 laws were enacted to protect. You are, sir, as far as I can
22 tell, a schemer; somebody who is trying to use the system for
23 your own advantage. I will not tolerate it and this hearing is
24 now over.

25 I will entertain an order from the Office the United

1 States Trustee to dismiss this case as a very obvious example
2 of a bad faith filing, together with a filing injunction
3 applicable to Mr. Truong and his wife.

4 Is there anyone else who wishes to be heard at this
5 point?

6 MR. KARTZMAN: Your Honor, can we -- Steve Kartzman,
7 Your Honor. Can we clarify the filing injunction? Is there a
8 time period, a geographic scope --

9 THE COURT: I think the geographic scope should be the
10 entire country and I think that the time should be a year.

11 MR. KARTZMAN: And dismissal is with prejudice of the
12 Chapter 13 case, Your Honor?

13 THE COURT: Absolutely.

14 MR. KARTZMAN: And will Your Honor retain jurisdiction
15 to adjudicate a timely application for sanctions under Title 28
16 Section 1927?

17 THE COURT: Yes.

18 MR. KARTZMAN: Thank you, Your Honor.

19 MR. VELEZ-RIVERA: Your Honor, we'll provide a form of
20 order along the terms of today's record and also in conformity
21 with the To-Viet-Dao dismissal order. We'll also, if Your
22 Honor would like, submit a proposed form of order denying the
23 motion to excuse the credit counseling requirement.

24 THE COURT: That's fine.

25 MR. VELEZ-RIVERA: And then --

1 THE COURT: I think that you should include in your
2 dismissal order as cause the failure to file credit counseling.

3 MR. VELEZ-RIVERA: Absolutely, Your Honor.

4 And then one more thing, Your Honor. The record
5 should reflect, and I will file an affidavit that I'm
6 personally handing to Mr. Truong a copy of the dismissal order
7 in the To-Viet-Dao case.

8 THE COURT: Fine. Thank you.

9 MR. KARTZMAN: Thank you, Your Honor.

10 MR. VELEZ-RIVERA: Thank you.

11 MS. KAVA: Thank you, Your Honor.

12 THE COURT: Thank you, Miss Kava.

13 MR. TRUONG: Thank you, Your Honor.

14 (Proceedings concluded at 10:37 a.m.)

15 CERTIFICATION

16 I certify that the foregoing is a correct transcript
17 from the electronic sound recording of the proceedings in the
18 above-entitled matter to the best of my knowledge and ability.

19

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21

22

August 1, 2007

23 Tracy Gegenheimer, AAERT Cert. No. 282
24 Certified Court Transcriptionist
25 For Rand Transcript Service, Inc.